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23RD DISTRICT, NEW YORK

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April 13, 2005

The Honorable Gale A. Norton
Secretary
U.S. Department of the Interior
1849 C Street, NW
Washington, D.C. 20240

Dear Madam Secretary:

As you undoubtedly know, on March 29, the U.S. Supreme Court ruled illegal the practice of the Oneida Indian Nation of New York purchasing land within its aboriginal homeland and declaring it exempt from state and local taxation and regulations. For your reference, I am enclosing a copy of the correspondence you received from the Chairman of the Madison County, New York, Board of Supervisors which outlines in greater detail the Court's ruling and its attendant impact on the County, as well as the letter I received from the Chairman of the Indian Affairs Committee of the Oneida County Board of Legislators.

In its decision, the Court noted that 25 USC 465 is the appropriate mechanism for tribal communities "to reestablish sovereign authority over territory last held by the Oneida 200 years ago." Further, it is my understanding that the Department considers the 17,000 acres currently in the possession of the Nation as reservation land, despite the fact that the Oneidas have neither resided on nor governed these lands for about 200 years prior to their recent purchase.

Any application by the Oneida Nation to have the Interior Department take these lands into trust must not be viewed as ordinary and routine and must be considered in context with the Court's ruling and the pending land claim litigation and settlement negotiations in New York State. It is *imperative* that your Department not act on any such application while these matters are pending. To do so would mean that the devastating checkerboard effect cited by the Court could be granted nonetheless. Further, the time frame for public comment and input should be lengthened in complex situations such as this.

Madam Secretary, the residents of Madison and Oneida Counties deserve to have their voices heard and their elected officials must have the clear opportunity to continue their pursuit of an effective and equitable negotiated settlement. Clearly, taking premature action on land-into-trust applications by the Oneida Nation would hamper these reasonable and legitimate pursuits.

I appreciate your time and attention to these critical matters and look forward to hearing from you in the very near future.

Sincerely yours,

John M. McHugh
Member of Congress

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April 11, 2005

Secretary Gale A. Norton
United States Department of the Interior
1849 C Street, NW
Washington, DC 20240

BY FAX AND US MAIL

Dear Secretary Norton,

On March 29, 2005 the Supreme Court of the United States issued a landmark ruling in the case of the *City of Sherrill , New York v. Oneida Indian Nation of New York et al. (03-855)*. That case declared illegal the Oneida Indian Nation of New York's practice of purchasing property within its ancient aboriginal homeland from current titleholders and unilaterally declaring it tax exempt, not subject to state and local regulation, and benefiting from Indian country status under federal law. Despite the unresolved and highly contested land claim brought in the early 1970's by the New York Oneidas, and other Oneida tribal plaintiffs, and joined by the United States in 1998, the New York Oneidas sought to resolve the issues through unilateral action. Most of the dispersed, checker-boarded 17,000 acres of property now owned by the New York Oneidas was purchased since 1998. That was when the United States entered the *Oneida Indian Nation of New York v. The State of New York* case (74-CV-187) case and when the defendants thought they were engaged in good-faith negotiations—facilitated by a court appointed mediator-- to come to a mutually satisfactory resolution of this long-standing dispute.

It is our assessment that the New York Oneidas were not acting in good faith as they sought, through self-help purchases, to establish sovereignty over checkerboard landholdings. There can be no doubt that the Supreme Court has just repudiated such an assertion of sovereignty over a checkerboard of parcels spread over two counties affecting 15 towns, cities and villages long inhabited and governed by non-Indians.

In the *Sherrill* case, the City sought to stem this by bringing tax foreclosure proceedings on 10 properties for which the New York Oneidas refused to pay taxes. The County of Madison brought similar action against the New York Oneidas but that action was remanded back to the District Court by the 2nd Circuit Court of Appeals where it has rested pending action by the Supreme Court in the *Sherrill* case. The Supreme Court heard oral argument on January 11, 2005 and on March 29, 2005 ruled that:

> *Given the longstanding, distinctly non-Indian character of central New York and its inhabitants, the regulatory authority over the area constantly exercised by the State and*

its counties and towns for 200 years, and the Oneidas' long delay in seeking judicial relief against parties other than the United States, standards of federal Indian Law and federal equity practice preclude the Tribe from unilaterally reviving its ancient sovereignty, in whole or in part over the parcels at issue. The Oneidas long ago relinquished governmental reins and cannot regain them through open market purchases from current titleholders.

In its analysis the Court noted that:

Congress has provided, in 25 U.S.C. §465, a mechanism for acquisition of lands for tribal communities that takes account of the interests of others with stakes in the area's governance and well being. Section 465 provides the proper avenue for OIN to reestablish sovereign authority over territory last held by the Oneida 200 years ago.

Although we do not agree, we understand that the Department of the Interior regards the scattered 17,000 acres as lands within a reservation notwithstanding the fact that the Oneidas have neither resided on nor governed these lands for approximately 200 years until they bought them recently. These parcels are still the subject of pending land claim litigation. They are surrounded by non-Indian communities (cities, villages, towns and neighbors). As the Supreme Court has recognized in these circumstances, state and local governments as well as neighboring landowners would be directly and adversely affected by taking these lands into trust without adequate consideration of local interests. Any lands taken into trust should result in a reasonable number of acres in a compact, contiguous area with recognizable boundaries. A checkerboard of trust lands across Madison and Oneida Counties would result in social and governmental chaos that would serve no ones interest. This is not a routine application to take lands into trust within a reservation.

Serious efforts are in progress to try to settle the Oneida land claim litigation. Taking contested land into trust for the Oneida Indian Nation of New York while these negotiations are pending may undermine these efforts and make it very difficult for the local governments to support a settlement.

We respectfully request that the Department of the Interior not take any action on any Oneida Indian Nation of New York applications to take Madison County land into trust while the land claim litigation is pending. Further, we ask that the public comment period be extended for six months to permit full development of factual information for the Department's full and careful consideration.

Relief denied the Nation by the highest court in the land should not be granted administratively, in view of the pending litigation. The court noted that:

A checkerboard of alternating state and tribal jurisdiction in New York State created unilaterally at the OIN's behest – would seriously burden the administration of state and local governments and would adversely affect landowners neighboring on the tribal patches.

In closing, I want to assure you that the Madison County Board of Supervisors is steadfast in its support for a negotiated settlement of the Oneida land claim that has troubled the citizens of

Madison and Oneida Counties since the first claim was filed in 1970. We believe that a negotiated settlement can create the most effective resolution of the land claim for all concerned. I hope that you can help facilitate a resolution that respects the legitimate expectations of the Oneida Indian Nation of New York as well as the citizens and governments of Madison and Oneida Counties.

Sincerely,

Rocco J. DiVeronica
Chairman

Cc: Governor George E. Pataki
Senator Charles E. Schumer
Senator Hillary R. Clinton
Congressman John McHugh
Congressman Sherwood Boehlert
Franklin Keel

ONEIDA COUNTY BOARD OF LEGISLATORS

William B. Croll • PO Box 49, 5737 State Rte 5 • Vernon, NY 13476 • 829-3961

April 11, 2005

Congressman John McHugh
2333 Rayburn Building
Washington, DC 20515

Dear Congressman McHugh,

As a result of the City of Sherrill v. Oneida Indian Nation of New York, the Supreme Court ruled that the Oneida Nation's properties are not to be considered sovereign, nor are they to be free of local taxation and jurisdictional control. This decision has the potential to clarify the conflicts that have arisen as a result of the Nation's checkerboard purchases.

It has come to my attention that the Oneida Indian Nation of New York has applied to have the Bureau of Indian Affairs take certain lands into trust, a process which would nullify the Sherrill decision. If the Bureau allows all lands owned by the Nation to be taken into "trust", Oneida County, its communities, and the Nation itself will be back to square one; part of a divisive relationship.

I am not opposed to exploring "trust" lands for the Oneida Indian Nation, but I am opposed to allowing the Nation to take all lands into trust without coming to the table to negotiate a reasonable compact and contiguous land mass. Oneida County has always been in favor of a settlement, but we cannot allow for the checkerboard fashion of ownership to continue. We have many issues that must be worked out prior to the land being taken into trust.

As our federal representative, I encourage you to take an active role in opposing the trust application in its current form. We feel that if the process allows for all Oneida Nation lands to be in trust, then the Supreme Court's opinion in opposition to checkerboard sovereignty will be effectively deemed moot. Thank you for you attention to this important matter, and I look forward to your assistance.

Sincerely,

William B. Croll

William B. Croll
Chairman-Indian Affairs Committee